

Section 4 Acquisition

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4.1 GENERAL PROJECT PRE-ACQUISITION ACTIVITIES

The Real Estate Appraisal Division, Titles and Acquisition Division and District Offices are responsible for handling numerous project right of way activities prior to the initiation of actual acquisition. These include preparing title research reports and updates, doing cost estimates, early trouble-shooting of potential right of way problems, providing the Design Section with recommendations to minimize acquisition costs and problems, if indicated, and setting up Project information on the computer.

PROCEDURES:

1. Requests For Conceptual Stage Plans And Right Of Way And Relocation Assistance Cost Estimates

The Environmental Section requests Conceptual Stage Plans early in the development of federally funded projects; the Design Section occasionally requests right of way and relocation assistance cost estimates on future projects. The Acquisition Division Chief will coordinate such requests with the Appraisal Division and the Relocation Unit and officially respond to these requests.

2. Requests For Title Information

- a. Location and Survey or the Consultant will occasionally direct an electronic request for title information on a project to the Real Estate Titles and Acquisition Manager.
- b. The Real Estate Titles and Acquisition Manager shall assign preparation of title research reports to a District or, if the title work will be done by a consultant, the Titles and Acquisition Manager will forward the request to the Contractual/Consultant Review Unit for handling.
- c. The District or consultant shall begin work on the request as expeditiously as possible. Title research reports rather than full title abstracts will be done.

- i. Title research reports will be prepared using the first page of the Title Research Report Form. It will list the current property owner as identified in the most recent deed of acquisition, his/her address, as well as the assessment and tax information, the recordation information of the most recent deed of acquisition, description of the property, conveyances of full ownership, and conveyances of other rights (servitude, lease, restriction, etc,) existing right of way, and recorded plats. A copy of the most recent deed will be attached.
- ii. Separate title reports will be prepared indicating the existing right of way for the project. This may consist of one or many individual title research reports in the name of DOTD, depending upon the number of deeds by which the Department came to own the existing right of way.
- iii. The completed title research reports shall be sent directly to Location and Survey or the Consultant, and one copy shall be sent to the Headquarters Agent.

3. Title Updates

- a. Full title abstracts are not required. However, title research reports that will be older than 6 months by the time of the Joint Plan Review Meeting must be updated. (Joint Review Meetings are generally held two months prior to the date the right of way maps are due. This date, which is shown in the letting schedule, shall be closely monitored to insure updated title research reports are completed in a timely manner.)

If there has been a change, the updated title will be sent to the Project Lead (the Titles and Acquisition Manager or Consultant Manager who is assigned to oversee the Project.) If the review of conveyance records indicates

that the title to a parcel is unchanged, a Title Update Letter will be sent to the Project Lead advising that there has been no change in the ownership.

- b. When the updates are completed, they will be forwarded to the Headquarters Agent. Two copies will be sent to the Appraisal Division when appraisals are requested, and one copy will be maintained in the Acquisition File.
- c. Updated research reports (only those necessitating right of way map revisions) will be forwarded to Location and Survey or the Consultant.
- d. The Real Estate Project Lead will track title work activities throughout the pre-acquisition process to insure it is prepared and updated in a timely manner. (See Paragraph 7.c. and Paragraph 8.a.ii. below.
- e. Any title research reports indicative of possible contamination will be brought to the attention of the Real Estate District Manager who will proceed to have the site investigated. If contamination is found or suspected, follow the steps found in Section 5.3. of the Improvement Control Procedures.

4. Assignment of Headquarters Agent

- a. The Real Estate Project Lead, either in the Titles and Acquisition Unit or the Consultant Unit, is responsible for assigning a project to a Headquarters Agent. Prior to receipt of appraisals on a project, the Headquarters Agent has minimal responsibilities. At a minimum these include:
 - i. Setting up the project on the computer;
 - ii. Dispersing copies of taking lines and right of way maps to the Appraisal Division and District;

iii. Requesting a Right of Way Number on federally funded projects.

- b. For continuity, whenever possible the Real Estate Project Lead will assign the same Agent to handle all aspects of the real estate process. However, because the time frame between the initial activities on a project (request for title research reports) to the receipt of appraisals is generally eight or more months, this may not be possible. If it is necessary to reassign the project, the Real Estate Project Lead shall insure that record keeping is kept up to date and that the project files are kept together.

5. Receipt Of Plan-In-Hand Prints And Notification Of Plan-In-Hand Meeting

- a. The DOTD Design Section will forward a copy of Plan-in-hand prints to the Real Estate Contractual/Consultant Review and Appraisal Chief, along with notification of the Plan-in-hand meeting. The Real Estate District Operations Chief will be notified of the meeting date.
- b. Representatives of the Appraisal Division and the District Real Estate Office shall attend the Plan-in-hand meeting. They will provide input as necessary on the right of way impacts of the proposed design.

6. Receipt of Taking Lines

- a. The Design Section will forward copies of the final taking lines (construction plans) to the Real Estate Section. The plans will be given to the Headquarters Agent, who is responsible for dispersing them at the proper time.
- b. If the Project is federally funded, the Agent will check the computer (TOPS) to see if a right of way project number has been assigned to the project. If not, the Agent will request a right of way number from Project Control.

- c. The Headquarters Agent is responsible for interfiling any and all changes to the construction plans as they are received.

7. Receipt of Preliminary Right of Way Maps

- a. When right of way maps are about 60% complete Location and Survey will forward preliminary copies to Real Estate.
- b. Upon receipt of the maps, the Project Lead will assign a Headquarters Agent to distribute the maps to to Appraisal, the District and Utilities and request they prepare Cost Estimates.
- c. The Real Estate District Operations Chief will schedule a Joint Plan Review Meeting, notify all participants by e-mail and/or in writing and provide them with copies of the maps. Real Estate representatives will include the Real Estate Project Manager, the Real Estate District Manager, the Real Estate Headquarters Agent, an Appraisal Division representative and a Headquarters Utility Engineer. Any participant who is unable to attend must submit a written report of his/her comments on the project.
- d. If title work is older than 6 months, the Headquarters Agent will request the District to update it. The Real Estate Project Lead will track the title updates.
- e. The Headquarters Agent will send a Notice Letter to each owner on the project notifying them of the proposed acquisition. Any subsequent changes in ownership will be handled according to Paragraph 9 of this Section.
- f. The Real Estate District Manager will assign one or more District Agents to prepare a relocation cost estimate within two weeks of receipt of the preliminary right of way maps. This cost estimate will be prepared without formally contacting potential displacees. The relocation cost

estimate will be entered into AARS, with a hard copy sent to the Relocation Assistance Officer.

- g. The District Manager will assign an Agent to ride the project and inventory improvements located on the project. A list of the improvements will be sent to the Real Estate District Operations Chief before the date of the Joint Review Meeting.

The District Real Estate Office will determine the presence of underground storage tanks and any possibly hazardous materials on the project. If any are found or suspected, the UST/Contaminated Site Information Form will be filled out for each and sent to the Headquarters Agent. The Headquarters Agent will request that the DOTD Materials and Testing Section test the site for contamination.

- h. The Acquisition Division Chief shall be responsible for requesting funding on all projects, as well as authorization on federal aid projects, as soon as the cost estimates are received. Upon receipt of funding (and authorization if applicable), the Acquisition Division Chief will electronically notify the Project Lead.

8. Receipt of Final Right of Way Maps

- a. Upon receiving final right of way maps on a project, the Headquarters Agent will:
 - i. Set up the ownerships in AARS and will provide the Central File Unit with a list of the parcel numbers so parcel files can be prepared. Parcels with possible contamination or USTs, will be indicated as such on AARS.
 - ii. Send five (5) sets of final Right of Way Maps and construction plans (including plan and profile sheets as well as drainage maps, if available) to the Appraisal Division, along with updated Title Research reports and a request for appraisals. If the

title research reports have not been updated in the last 6 months, this request for appraisal must be delayed until updates are complete.

- iii. Send six (6) sets of Right of Way Maps and taking lines to the District, with a request that title work older than 6 months be updated. The Real Estate Project Lead will track the updates.
 - iv. Request mortgage certificates on parcels that have damages, major improvements, an uneconomic remainder or which involve a total take of an economic tract. Mortgage Certificates will be requested in the name of the current owner only, and will not be requested if there are no major improvements, if there are no damages, and if the remainder is an economic unit. (See Section 4.2., Paragraph 4.e., and Section 4.3., Paragraph 2 for other times to order Mortgage Certificates.)
 - v. Check the title research reports against the right of way maps to insure parcel ownerships are correct.
 - vi. Verify that all improvements on the project have been entered into AARS by the District, and provide a list of all improvements (AARS Improvement Report) to Road Design and Contracts and Specifications.
 - vii. Insure that each owner has been issued a Notice Letter.
- b. Upon receiving the six (6) sets of right of way maps and taking lines, the District Manager will:
- i. Have the relocation cost estimate and title work updated as necessary;

- ii. The District Manager will provide that improvements located on the project be entered into AARS. The time frame for completing this is three weeks from receipt of final maps;
- iii. Assign Agents to begin occupant interviews and inventories on all displaced persons and businesses on the project.

9. Changes In Ownership

Changes in ownership of required properties shall be handled as follows:

- a. If the project Notice Letters have already been sent but appraisals have not been ordered, a new Notice Letter will be issued to the current owner.
- b. If appraisals have been ordered, a new Notice Letter will be sent to the current owner and the Appraisal Division will be given written notification of the change.
- c. If the appraisal has been completed, and/or negotiations have begun, a new Compensation Offer Letter will be issued to the current owner. If the property was valued by an appraisal, the negotiating agent will afford the owner the opportunity to meet with the appraiser, and make a note of this in the Negotiator's Summary Report. Should the property owner wish to speak with the appraiser, negotiations will be discontinued and Headquarters advised to notify the Appraisal Division to take appropriate action.

4.2 GENERAL PROJECT ACQUISITION ACTIVITIES

When preliminary acquisition activities on a project are complete and funds have been set up by Project Control, acquisition activities can begin.

PROCEDURES:

1. Receipt of Compensation Estimates

When the Headquarters Agent receives Compensation Estimates on a parcel, he/she will immediately fax a copy to the District. This insures that by the time the District receives electronic transmission of the Compensation Offer Letters, the Estimates will be in the District and the Negotiating Agent will have all the pertinent information on the offer.

2. Compensation Offers on Parcels with Compensation Estimates

- a. The Headquarters Agent will prepare a Just Compensation Offer Letter. Prior to transmitting the letter on federally funded projects, the District Agent will assure that Federal authorization has been obtained. The District Agent will then mail the offer letters to owners to initiate negotiations.
- b. As soon as it becomes apparent amicable acquisition on an ownership valued by Compensation Estimate is unlikely, the District will notify the Project Lead, who will request the Appraisal Division to arrange for a full appraisal of the property.

3. Notice of Initiation of Negotiations on the Project

The District Manager will notify the DOTD Acquisition Division Chief and the Relocation Assistance Officer of the date of the first negotiating contact with an owner on the project. Within ten (10) days of this date which the Project Initiation of Negotiations, the District Agent will send Informational Notices to all displacees on the project.

4. Receipt of Appraisals

- a. Upon receipt of appraisal(s), the Headquarters Agent will look through the appraisal to familiarize him/herself with the acquisition facts, such as whether there is an uneconomic remainder, or whether the parcel is improved and involves relocation.
- b. The offer of compensation **MUST** be what is shown on the Appraisal Review Sheet. If any adjustments need to be made, they must be made by the Review Appraiser. Any questions the Headquarters Agent has concerning the Appraisal shall be directed to Project Lead, who will discuss with the Appraisal Manager if necessary.
- c. The Headquarters Agent will fax a copy of the Appraisal Review Sheet to the District and then mail the District a copy of the appraisal and the two Appraiser Certificates.
- d. The Headquarters Agent will send any appraisals needing improvement retention values back to the Real Estate Project Lead, who will set the retention values. Retention values shall be entered in AARS so that Real Estate can maintain a database of retention values for use in developing a consistent and uniform retention pricing policy.
- e. Mortgage Certificates were ordered in the name of the current owner for ownerships having major improvements upon receipt of right of way maps (see Section 4.1. Paragraph 8.a.iv. above). Upon receipt of appraisals, the Headquarters Agent will proceed to order Mortgage Certificates for any ownerships where the appraisal indicates damages to the remainder, where the appraisal includes an offer to purchase the uneconomic remainder or where the acquisition involves the total take of an economic tract. Mortgage Certificates will also be ordered for any parcels with major improvements in the

appraisals which were not known at the time of receipt of final right of way maps.

- f. The Headquarters Agent will prepare and transmit for signatures a Certificate of Estimate of Compensation, Certificate on Location and Design, and Certificate of the Chief Engineer.
- g. When the Headquarters Agent will request a Certificate of Authorization to Expropriate from the DOTD General Counsel.

5. Offer Letters on Parcels with Appraisals

- a. The Headquarters Agent will prioritize parcels according to complexity, and prepare Compensation Offer Letters on the most difficult first. Offer letters will be electronically transmitted to the District Office.
- b. The Real Estate District Manager will assign the parcel to a Negotiating Agent, who will make contact with the property owner, generally first by telephone. The Agent will verify the address with the property owner and advise that he/she will be receiving a negotiating package. If the owner indicates a desire to be contacted personally, the Agent will comply.
- c. The negotiating package will be mailed to the property owner return receipt requested, including owners who request a personal contact. (Negotiations by Mail Letter). The negotiation package will include the following documents:
 - The Just Compensation Offer Letter
 - Summary of Just Compensation
- d. As soon as it becomes apparent amicable acquisition on an ownership with only one (1) appraisal is unlikely, the District will notify the Real Estate Project Lead, who will

request the Appraisal Division to arrange for a second appraisal of the property.

- e. Upon agreement by the property owner with the Department's offer, the Negotiating Agent will request a deed from the Real Estate Project Lead, detailing any particulars of the negotiations which need to be included in the deed.
- f. The deed will be prepared by a Headquarters Real Estate Agent and electronically transmitted to the District. The deeds used by the Department are Act of Sale, Servitude of Drain, Temporary Construction Servitude, and Right of Way Deed.
- g. The District Agent will run three copies of the deed and process all for original signatures.

6. Negotiation Time Table

- a. If the Negotiating Agent has not received a response from the property owner within two weeks, he/she will attempt to contact the owner by phone to discuss the offer.
- b. Negotiations that have lasted sixty (60) days shall be reported to the Real Estate District Operations Chief, who will assist the negotiator in attempting to reach an amicable settlement with the owner.
- c. As a general rule, any package that has been in the negotiation stage for ninety (90) days shall be recommended for expropriation unless the Real Estate District Operations Chief approves an extension.
- d. Requests for an extension of negotiating time will be made at least two weeks prior to the expiration of the 90-day time frame. Such requests will be in writing and shall be addressed to the DOTD Real Estate District Operations Chief, with a copy to the Real Estate Project Lead. All requests shall include projected completion

date, reasons for the request and a copy of the negotiator's summary report.

7. Counter Offers and Administrative Settlements

- a. All counter offers from owners, whether verbal or written, shall be given formal consideration. An Administrative Settlement Form will be filled out by the District Manager or Real Estate Agent on every counter offer.
- b. The District Real Estate Agent or consultant negotiator has authority to approve counter offers up to \$5,000 over the amount of the original offer. The Real Estate District Manager has authority to approve counter offers up to \$10,000 over the amount of the original offer. If the negotiator or Real Estate District Manager do not approve a counter offer up to the limit, or if the counter offer is greater than \$10,000, the District Manager will make a recommendation regarding disposition and forward the counter offer to the Project Lead.

8. The Real Estate Project Lead has the discretion to approve counter offers up to \$25,000 over the original offer. If the Project Lead does not approve the counter offer, or it exceeds the approval threshold, he/she or the Real Estate Assistant Acquisition Manager will review the material and prepare a written recommendation concerning disposition, and forward to the Real Estate Administrator. The Real Estate Administrator, Acquisition Division Chief, Real Estate District Operations Chief or Appraisal Division Chief will render the final decision regarding the counter offer, with no cap on the amount they can approve. Acquisition Checks

- a. When the property owners sign the three deeds of acquisition, they will fill out a W-9 form if they have not already done so.
- b. Before the Headquarters Agent orders the check, the District Agent will assure that the property is unencumbered or that the Department has (or will be able

to obtain) the necessary partial release(s). This requirement applies only to properties with major improvements, damages to remainder, and/or where the remainder is not an economic unit.

- c. The voucher for just compensation, with completed W-9 and copy of the executed acquisition instrument (Act of Sale, etc.) attached, will be sent to Accounting.
- d. When the check is received, the Headquarters Agent will forward it to the District for delivery or mailing to the property owner.
- e. Immediately prior to delivery or mailing of the check, the District Agent will update the mortgage certificate (if applicable) and title take-off to insure that the Department is getting clear title from the current ownership.
- f. Concurrently, the Headquarters Agent will mail the deed to the Clerk of Court for recordation. This guards against transfer of title to a third party between the time the acquisition check is received from Accounting and delivered to the owner.
- g. Checks can be mailed or delivered to property owners by any Real Estate Section employee, including the negotiating agent/consultant.
- h. Upon mailing a check to a property owner, the parcel(s) will be considered acquired for purposes of project clearance. However, for purposes of closing the file, either a signed Return Receipt in the file or a signed check receipt will be necessary.
- i. If a check is not sent "Return Receipt Requested" and a check receipt is not returned by the property owner in a reasonable period of time, the Headquarters Agent will check with Accounting to see if the check has cleared. If it has, the file will be documented and the file closed; if not,

the District Agent will contact the owner to resolve the problem.

9. Deed, Sale , Servitude and Agreement Documents

Added
9/2004

Notary Statute, R.S. 35:12 (1841:3445998) requires that all names in Sale, Servitude and Agreement documents be typed in full – first, middle and last names - with NO abbreviations. This applies to all parties: Real Estate, owners and witnesses.

10. Expropriation

- a. When the District Agent determines that amicable acquisition is not possible, either because of title issues or rejection of the offer, he/she will advise the Real Estate District Manager, who will send Headquarters a recommendation to expropriate the ownership.
- b. Upon receiving the recommendation to expropriate, the Headquarters Agent will review the date of the appraisal upon which the just compensation was set.

1. Appraisals are still current:

The Headquarters Agent will send the property owner a Five-Day Letter. This letter discloses to the owner information about the appraisers who set the value of the property, as required by statute.

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2. Appraisals are over a year old and project letting date more than three months in future:

- i. The Headquarters Agent assigned to the project will request updated appraisals through the R/E Appraisal Chief.
- ii. The Appraisal Unit will immediately request/contract with the pertinent appraisers for updated letters depicting any change in value that will include a new site inspection. The update contract will include a beginning

and an ending date and shall not exceed 30 days.

- iii. If the update results in an increase in value, the assigned appraiser will also provide a updated Appraisal Certificate.
- iv. The Review Appraiser will prepare a revised review sheet with the Appraisal Certificate to the HQ Agent . The HQ Agent will then prepare the 5-Day Letter with Updated Offer, including a new Summary Just Compensation.
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- v. If the owner does not accept the offer within the 5-day limit , the HQ Agent will wait 10 days from the mailing date and then send the documents to Legal to file the suit . *The revised offer will **not** be sent back to the District to renegotiate.*
- vi. If owner decides to accept the revised offer after the 5-Day Letter, the District will resume amicable negotiation procedures.

3. Appraisals are over a year old and project letting date within three months:

- i. The HQ Agent will send the regular 5-Day Letter.
- ii. Concurrently, the HQ Agent will send a request for an updated appraisal to the RE Appraisal Chief.
- iii. If the owner does not accept the offer within the 5-day limit , the HQ Agent will wait 10 days from the mailing date and then send the documents to Legal to file the suit with the old appraisal and advise Legal that an updated appraisal has been ordered.
- iv. When the updated appraisal is available, it will be forwarded to Legal. If the value of the ownership is increased by the appraisal, Legal will amend the suit to change the value.

- c. After sending the Five-Day Letter, and obtaining the certificates referred to in Paragraph 9.c. above, the Headquarters Agent will send the entire ownership file to the Legal Section (Transmittal to Legal). Included in this package will be Appraiser Certificates signed by the property appraisers that have been signed by the Real Estate Administrator certifying the established offer of compensation.
- d. Legal prepares the expropriation documents and sends the suit package back the Real Estate. The Headquarters Agent orders the check for the just compensation.
- e. When the check is received and the suit is ready to be filed, the suit package will be mailed to the respective Real Estate District Manager for title update and filing in the Clerk of Court's office as follows:
 - i. The District Agent will check the title at the courthouse prior to delivering the suit package to the clerk. If the title is unchanged, the suit will be filed. If there is a change, the District Agent will return to the office, prepare a title update and forward it to the Real Estate Project Lead so the suit can be amended prior to filing, or negotiations conducted with the current ownership.
 - ii. The District Agent will hand deliver the suit to the courthouse and attempt to have the judge sign the appropriate documents the same day. The Agent will insure that recordation has taken place, both in the Civil Suit Records as well as in the Conveyance Records.

11. Acquisition Appeals on Disallowed Reimbursements

If the owner indicates dissatisfaction with a determination as to his or her eligibility for, or the amount of, a payment or reimbursement made for expenses incidental to the transfer of title to the Department said owner will be promptly advised

of the exact procedures to be followed in making an appeal. The appeal procedures are as follows:

- a. An appeal may be filed for any of the several determinations made by the Department concerning expenses incidental to transfer of title to the Department. Appeals should be in writing, attaching any supporting information deemed appropriate by the property owner. Appeals are to be submitted within 60 days after the property owner receives notification of the Department determination regarding expenses incidental to transfer of title to the Department.
- b. The written appeal should be submitted to and reviewed by the Real Estate District Officer who will indicate his recommendation for approval or disapproval. The Real Estate District Officer will then list the reasons for his recommendation and transmit same to the Project Lead. The Project Lead shall examine each appeal, investigate the facts, prepare a list of factual findings, and submit the appeal to the Real Estate Administrator.
- c. Immediately upon receipt of the appeal the Real Estate Administrator will review the appeal and the recommendations of the Real Estate District Officer and the Chief of Titles and Acquisition.
 - i. If the total appeal as submitted by the property owner is approved by the Assistant Real Estate Administrator, reasons for approval shall be filed with the appeal, a copy of the reasons for approval will be sent to the Real Estate District Officer, the property owner making the appeal shall be notified of the approval in writing, and the incidental expense will be processed for payment.
 - ii. If the appeal is denied, the owner will be notified in writing with a copy placed in the file.

12. Negotiator Summary Reports

The Negotiator's Summary Report provides a complete overview of activities on a parcel. The District Agent shall update the AARS Ownership Log of Contacts immediately after each contact.

13. Special Agreements

Special Agreements, such as those needed for changing driveway locations, shall be handled in an expeditious manner and must be completed by the Project PS&E Date. To assist in getting the Project Engineer's approval of special agreements, the Notice of Right of Way Agreement may be used.

14. Disposal of Improvements

Disposal of improvements by Real Estate shall be handled according to procedures outlined in Section 5 of the Real Estate Manual. Improvements not disposed of by Real Estate will be handled in the roadway contract. So that Road Design and Contracts and Specifications are aware of which improvements are to be included in the plans and contract, the Real Estate Agent will amend lists of remaining improvements as follows:

a. Receipt of Final Right of Way Maps

A list of improvements within the right of way shall be furnished the Road Design Section and the Contracts and Specifications Section as soon as possible after receiving the final right of way plans. (AARS Project Improvements Report).

b. Four months prior to letting date:

A list of the improvements which remain in the right of way will be submitted to the Road Design Section and the Contracts and Specifications Section so those items can be included in the plans and contract. (AARS Project Improvements Report).

- c. At Plans, Specifications and Estimates (PS&E) date:

A final list of the improvements which are to be included in the roadway contract will be submitted to the Road Design Section and the Contracts and Specifications Section. (AARS Improvement Report – Improvements with disposition “roadway contract” only.)

15. Project Certification

The Real Estate District Operations Chief will notify Project Control as soon as the right of way is clear and insure that the project certification date is entered in AARS. The Central File Room will be notified of the date of project clearance for purposes of file management.

16. File Management

- a. When the project acquisition is complete, the Headquarters Agent will strip Project and parcel files of extraneous documents and send to the Central File Room. Files will be maintained in the Central File Room for three years from the project clearance date. After three years, the files will be sent to microfilm.
- b. Files on expropriated parcels will be stored in the Legal Section, with only a skeleton file being maintained in Real Estate.

4.3 Uneconomic Remainders

An uneconomic remainder is that portion of a property remaining after a partial acquisition by the Department, which is of little or no utility or value to the owner, as determined or agreed to by the Department. The decision to declare a remainder uneconomic is normally made by the Real Estate Review Appraiser at the time of appraisal review. However, the Real Estate Administrator can determine a remainder to be uneconomic when there is adequate support and justification.

In many cases it will be obvious that a remainder is uneconomic. Other cases will be more complicated and it will be necessary that an analysis be made of the before and after condition of the parcel. This analysis will look at all aspects of the acquisition.

PROCEDURES:

The following guidelines should be followed in the determination of an uneconomic remainder and the acquisition of the remainder.

1. A remainder may be determined to be uneconomic if the use of the property will be substantially diminished by the taking through loss of parking, change in shape or other causes. The reduction in utility of the property from the before state should be looked at in relation to the current ownership, keeping in mind that the remainder may be declared uneconomic while still retaining a substantial market value.
 - a. Landlocked remainders will generally be classified as uneconomic.
 - b. If a partial taking destroys the present utility of the remainder but creates another utility of equal or greater value to the owner, the remainder should not normally be classified as uneconomic.
2. If in the appraisal process the Department does not make an uneconomic determination of a remainder and the property owner disagrees, the owner may provide written justification as

to why the Department should acquire the remainder. If the owner does furnish adequate justification indicating the remainder to be uneconomic, the Real Estate Administrator may declare the remainder to be uneconomic. If this occurs, the Headquarters Agent will immediately request a Mortgage Certificate, if none was ordered at the time of receipt of final right of way maps or appraisals.

3. After the determination has been made that a remainder is uneconomic, the Department will offer to purchase said remainder from the property owner. If the offer to purchase the uneconomic remainder is unacceptable to the owner because of value, but the property owner agrees with the uneconomic remainder determination, the Department may expropriate said remainder together with the required property.
4. Where the Department will purchase an uneconomic remainder, the Titles and Acquisition Unit will prepare a conveyance deed providing for the Department's purchase of the required parcel and the uneconomic remainder parcel. The remainder tract will be designated by the number assigned to the required parcel preceded by the letters UR (for example, the uneconomic remainder of Parcel No. 2-2 will be designated as Parcel No. UR 2-2).
5. One (1) reduced print of the Right of Way Plan Sheet showing the uneconomic remainder and the full size Right of Way Sheet referred to in Paragraph 6.e. below, will be stamped with the UR Parcel Number to designate said remainder as uneconomic. This print will be attached to the original Act of Sale filed of record with the Clerk of Court.
6. The Property Management Unit will be notified of each purchase of an uneconomic remainder. Such notification will include the following items:
 - a. Copy of Voucher
 - b. Copy of Recordation Data

- c. Copy of Act of Sale
 - d. Copy of Appraisal Report and Appraisal Review Sheet
 - e. Copy of full size Right of Way Sheet(s) showing the referenced property stamped with the UR Parcel Number designation.
7. Land acquired under this policy will be handled in accordance with the Property Management procedures found in Section 8. of the Real Estate Manual.

4.4 Adversely Impacted Improvements

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, allows the Department to offer to acquire those improvements located totally or partially outside the required taking which the Department determines to be adversely affected by the project. Such properties are often valuable sources of income to the Department, and will be offered for sale to the public immediately after their acquisition.

For the purpose of this policy, adversely affected means structures that are economically impacted, unsafe, lose their utility in relation to the remainder property, or are otherwise damaged. The decision to declare an improvement adversely impacted is made by the Real Estate Administrator, either prior to negotiations, or as an administrative settlement resulting from a counter offer, and must be documented by a fully completed Adversely Impacted form.

PROCEDURES:

The following guidelines will be followed in the determination and acquisition of adversely impacted improvements:

1. All Real Estate personnel, both in the District and at Headquarters, will look for possibly adversely impacted improvements at the time of plan-in-hand inspections,

relocation assistance cost estimate preparation, Joint Plan Review Meetings, and other property inspections.

2. The Real Estate District Manager will make recommendations to the Real Estate Contractual/Consultant Review and Appraisal Chief at the time of preparation of the relocation assistance cost estimate as to which improvements on a project, if any, might be adversely impacted. These recommendations as well as recommendations from other Real Estate personnel for adversely impacted determinations, will be analyzed by the Real Estate Contractual/Consultant Review and Appraisal Chief, who will make recommendations for approval or rejection to the Real Estate Administrator prior to the preparation of Appraisal Contracts. Those improvements that the Real Estate Administrator determines to be adversely impacted (documented by the Adversely Impacted form) will be identified as being adversely impacted in the Appraisal Contract.
3. A remainder improvement may be recommended as being adversely impacted by the Real Estate Review Appraiser, if, in the appraisal process, a cost-to-cure estimate of damages is based on moving the improvement back on the remainder.
4. The following items shall also be considered when making recommendations regarding adversely impacted improvements:
 - a. A remainder improvement may be recommended as adversely impacted if the taking by the Department creates a situation in the after state whereby ingress and/or egress to the remainder would be unsafe or nonexistent.
 - b. A remainder improvement may be recommended as adversely impacted if the taking affects said improvement to such an extent that it no longer meets local zoning and/or fire codes and/or utility overhang regulations; however the adversely impacted determination will not be made if the violations can be cured with reasonable and minimal alternations.

- c. A remainder improvement may be recommended as adversely impacted based upon pertinent information and justification provided by the owner.
- 5. The Real Estate Administrator will make the final decision to declare an improvement as adversely impacted. All such determinations shall be made on the Adversely Impacted form.
- 6. If the adversely impacted determination is made prior to negotiations, the Appraisal/Review will provide two separate and distinct offers:
 - a. Offer for the required land, improvements (in the taking), and damages (including damages to the adversely impacted improvement).
 - b. Offer for the required land and improvements in the taking, and for the adversely impacted improvement and associated land (if the decision has been made to acquire associated land) indicated on the Adversely Impacted form.
- 7. If the improvement is owner-occupied the relocation assistance offer should be made at the same time the acquisition offer is made, with the understanding that the owner-occupant will only be eligible for relocation benefits if the occupied improvement is purchased by the Department. If the improvement is tenant occupied, the relocation offer will not be made until the Department has purchased the improvement.
- 8. The Headquarters Agent will include both offers in the Compensation Offer Letter(s) to the owner(s). The owner has the option of accepting either offer.
- 9. If no recommendation and/or decision of adversely impacted is made prior to negotiations, and the property owner disagrees, the owner may provide written justification as to why the Department should acquire the improvement. If the owner does furnish adequate justification indicating the improvement to be

adversely impacted, the Real Estate Administrator may declare the improvement to be adversely impacted, provided there is proper documentation and support, and will fill out an Adversely Impacted form on the improvement.

- 10.** If the Real Estate Administrator declares an improvement to be adversely impacted after negotiations have begun, it will be handled similar to an administration settlement (no additional offer of just compensation is made). However the adversely impacted improvement will be coded 112 on the voucher, and any remainder land acquired will be coded 148, and an Adversely Impacted form must be filled out.
- 11.** When it is determined that an improvement is adversely impacted the following will apply:
 - a. The occupants of the improvement will be considered adversely affected and shall be offered full relocation assistance benefits, provided the owner actually sells the improvement to the Department. The Field Agent will designate the improvement as Adversely Impacted on the AARS Relocation Screen , and the Headquarters Agent will designate the parcel as having a remainder – other type, if remainder land will be included in the offer, on AARS Ownership Screen.
 - i. If the occupants wish to lease-back the improvement after acquisition, they must agree to allow the Department to show the improvement to interested buyers, as specified in the Adversely Impacted Lease Agreement.
 - ii. If the Department is acquiring the improvement only, the agent must obtain a right of entry on the remainder property in addition to the Adversely Impacted Lease Agreement.
 - b. If the adversely impacted determination was made prior to the appraisal process, the alternate offers will be available on the review sheet. If the determination is made by the

Real Estate Administrator subsequent to the appraisal process, the amount to be included in the Act of Sale will be determined by the following:

- i. The remaining land and adversely impacted improvement are acquired:
The amount in the Act of Sale will be the before value of the entire parcel.
- ii. The adversely impacted improvement is acquired, but not the remaining land:
The amount in the Act of Sale will be determined as follows:
 - 1) Extracting the appraised value of the improvement from the Appraisal Report, then
 - 2) Deducting from the original offer, the amount of damages attributable to the adversely impacted improvement, and
 - 3) Adding the amount established in 1) above to the amount established in 2) above.

If the Headquarters Agent is unsure or questions how to arrive at this amount, he/she will contact the Real Estate Review Appraiser for assistance.

- c. If the adversely impacted improvement is purchased by the Department, the retention option will not be automatic. Retention of an adversely impacted improvement requires the approval of the Real Estate Administrator, who will make a decision on a case by case basis, taking into account such information as size of remainder, owner's intentions (where the improvement is to be moved), local zoning, terrain, etc.) The option to retain will be specified in the Adversely Impacted form.
- d. Unless the improvement is being retained by the owner in accordance with the above, or the land on which the adversely impacted improvement is located is being acquired, the acquisition deed will provide for the

Department having the right to enter on the remainder to remove or demolish the improvement.

12. Disposition of adversely impacted improvements will be handled by the Property Management Unit, which will begin marketing them immediately following their acquisition. The Headquarters Agent will send a copy of the Adversely Impacted form to the Property Management Unit as soon as the improvement has been declared AI, prior to acquisition. Within three working days of the acquisition of the property, the Headquarters Agent will forward the following documents to the Property Management Unit:

- a. Copy of the Adversely Impacted Form
- b. Copy of Voucher
- c. Copy of Recordation Data (if not available within 3 days, send as soon as possible.)
- d. Copy of Act of Sale
- e. Copy of Appraisal Report and Appraisal Review Sheet
- f. Copy of full size Right of Way Sheet(s) showing the referenced AI improvement and associated property, if any.
- g. Copies of before and after inspection reports. If the after inspection is not yet available when the file is transmitted to Property Management, it must be sent as soon as it is.

13. If the land on which the adversely impacted improvement is located is acquired, the disposition recommendation will be documented on the Adversely Impacted form, and will include whether or not to sell the house and land as a unit, or demolish (or sell) the improvement and sell the land separately.

14. Adversely impacted properties can be processed for disposal by the Property Management Unit immediately, and do not

have to be held by the Department for a specified time, as do Uneconomic Remainders. For this reason, remainder land associated with an Adversely Impacted improvement should never be coded as a UR. The improvement and any associated land should carry the designation AI.

SECTION 4.5 PROCEDURE FOR FEDERAL LAND TRANSFERS OF UNITED STATES FOREST SERVICE LANDS

When the Department is negotiating for the acquisition of United States Forest Service lands, the negotiations are to be conducted by the Real Estate District Manager or designee. These negotiations should be conducted directly with the Forest Service Ranger District.

When final right of way maps are first received by the Real Estate District Office, during preliminary right of way activities, which indicate that U.S. Forest Service land will be required for a DOTD Project, the Real Estate District Manager or designee will contact the District Ranger of the U.S. Forest Service and inform the Ranger of the need for the land. A meeting will be scheduled as soon as possible at which time the U.S. Forest Service will be provided two copies of the project plan sheets and property descriptions. The project will be explained as it would be to any landowner from whom an acquisition will be made. The U.S. Forest Service will then review the plans and descriptions and determine if any stipulations will be needed. These stipulations should be negotiated between the Department and the U. S. Forest Service and need to be evaluated for reasonableness. Stipulations may include construction considerations, right of way adjustments, timber removal, right of way maintenance, etc. Stipulations will be reviewed and coordinated with the DOTD Design Section and after agreement will be sent to the Real Estate Administrator for approval and returned to the Forest Service. Stipulations are agreements between the U.S. Forest Service and the DOTD regarding construction specifications and other adjustments regarding the U.S. Forest Service property. They will become part of the Federal Land Transfer Highway Easement Deed and the PS&E for the project if applicable.

After coordination with the U.S. Forest Service and agreement regarding the correctness of the plans and descriptions, the Real Estate District Manager or designee will notify the Real Estate Titles and Acquisition Agent in the Real Estate Titles and Acquisition Office of the pending Federal Land Transfer. Information provided by the Real Estate District Manager or designee will include:

1. The Parish in which the project is located

2. The name of the Forest in which the project is located
3. The State project number and parcel number(s)
4. The Federal project number
5. The highway project description
6. The Township, Range, Section, Meridian description.

The Real Estate Titles and Acquisition Agent should check the property descriptions and right of way maps to ensure accuracy and will prepare the Highway Easement Deed. The Deed, along with the plans and descriptions will be transmitted to the Federal Highway Administration (FHWA) Louisiana Division Office for further processing. The Deed will be on 8 1/2" X 11" size paper. The highway plan sheets will be on 11" X 17" size paper.

The Federal Highway Administration will forward the Highway Easement Deed to the U.S. Forest Service for approval. After approval by the U.S. Forest Service, the FHWA will execute the Deed and return four original copies to the DOTD Real Estate Administrator for acceptance. The Highway Easement Deed will be sent to the clerk of court for recordation in the appropriate Parish. The Titles and Acquisition Office will need three copies of the Highway Easement Deed, along with the conveyance data from the clerk of court's office. They will retain one copy, along with the conveyance information, and forward the other two, along with conveyance information from the clerk of court's office, to the FHWA who will retain one and forward the other to the U.S. Forest Service.